

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FREDERICK O. OPIYO,

Plaintiff,

CASE NO. 09-CV-13609

HONORABLE GEORGE CARAM STEEH

v.

DEPUTY H. BOEHM, DEPUTY J.  
DARLING and DEPUTY WEDGE,

Defendants.

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ORDER DENYING PLAINTIFF'S MOTION FOR  
APPOINTMENT OF COUNSEL (DOC. #49) AND STRIKING  
MEDICAL MALPRACTICE COMPLAINT (DOC. #50)

The court denied plaintiff's motion for relief from judgment in his prisoner civil rights case finding that it was untimely under Rule 60(b)(3) of the Federal Rules of Civil Procedure, and that he did not establish by clear and convincing evidence that defendants committed fraud. Plaintiff appealed the court's decision to the Court of Appeals for the Sixth Circuit. Now before the court is plaintiff's motion for appointment of counsel (Doc. #49). Given plaintiff's pending appeal, this court lacks jurisdiction to address plaintiff's motion. The motion is, therefore, DENIED. Plaintiff also filed a Federal Tort Claims Act (FTCA) Medical Malpractice Complaint (Doc. #50). The court STRIKES the complaint as an improper filing in this case. Plaintiff is directed to file any papers related to this case in the Court of Appeals for the Sixth Circuit where his appeal is currently pending.

IT IS SO ORDERED.

Dated: March 30, 2015

s/George Caram Steeh

GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 30, 2015, by electronic and/or ordinary mail and also on Frederick Opiyo #39194039, FCI Bastrop, P. O. Box 1010, Bastrop, TX 78602.

s/Barbara Radke  
Deputy Clerk